

DPS-310

August 24, 2006

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **06-1854**

MICHAEL MCCOLE

VS.

PENNSYLVANIA BOARD OF PROBATION AND PAROLE, ET AL.

(W.D. PA. CIV. NO. 04-CV-00261E)

Present: FUENTES, VAN ANTWERPEN AND CHAGARES, CIRCUIT JUDGES

Submitted are:

- (1) Appellant's request for a certificate of appealability under 28 U.S.C. § 2253(c)(1);
- (2) Appellant's Motion for stay of District Court order pending appeal;
and
- (3) Appellant's motions to take judicial notice

in the above-captioned case.

Respectfully,

Clerk

MMW/JTD/nf/lwc

ORDER

The foregoing stay motion is construed as a request for remand to the District Court and leave to file objections to the Magistrate Judge's Report and Recommendation. This request for remand to file objections is granted. We will retain jurisdiction over this appeal during remand, and hereby stay proceedings on appellant's application for a certificate of appealability and motions to take judicial notice. After the District Court rules on appellant's objections as promptly as its docket permits, we will proceed with our consideration of appellant's application for a certificate of appealability and motions,

if necessary.

By the Court,

/s/ Franklin S. Van Antwerpen

Circuit Judge

Dated: September 6, 2006

lwc/cc: Mr. Michael McCole
Mary L. Friedline, Esq.
Kemal A. Mericli, Esq.
Honorable Sean J. McLaughlin
Clerk, Western District Court of Pennsylvania



Marcia M. Waldron

Marcia M. Waldron, Clerk